

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
October 19, 2007
1:30 p.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, August 23, 2007 in Nashville, Tennessee at 1:30 p.m. Chairman John Jones and Commissioner Harlan Mathews were present. Although Commissioner Cynthia Bond was not in attendance, a quorum was present and the meeting was held. Executive Director Danielle Elks, Assistant Director Carolyn Smith, TABC SAC Mike Cawthon, TABC SAC Bond Tubbs, TABC ASAC Andy Woodall, TABC Agents Brad Allison, Debra Warren, Rosalyn Jackson and Nina Williamson were present.

1. The Minutes for September 27, 2007 Commission Meeting were approved.

2. OLD BUSINESS:

A. RETAIL

**MILLENNIUM SPIRITS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Licensee/Seller: Mehendra Patel
Applicant/Buyer: Elamir Nashed and Melad Sawiers**

Before the Commission is a request for a transfer of ownership of the retail store located at 4035 Nolensville Road in Nashville, Tennessee. Mr. Elamir Nashed and Mr. Melad Sawiers wish to purchase Millennium Spirits from Mehendra Patel for a purchase price of \$65,000. If approved, they will operate the business as an informal partnership. A review of the application indicates that each partner will invest \$25,000 from existing personal funds. They are leasing the property from Arvind Patel for a period of five years, with rent starting at \$3000 per month and increasing to \$3360 per month over the term of the lease. All documentation has been submitted with the exception of the following:

- a. Explanation of the source of the remaining \$15,000 purchase price;
- b. Written statement acknowledging the retail store and convenience store may not be run together;
- c. TABC Inspection;
- d. Acknowledgment of the rules and regulations;
- e. Bank statements indicating balances of at least \$25,000;
- f. Tax returns for the past two years.

*** If approved, the applicants wish to change the business name to Uncle Koto's.**

Discussion/Action Taken:

Elamir Nashed was present at the meeting. Director Elks reviewed the application to the Commission and she recommended approval upon submission of the following documents:

- a. Explanation of the source of the remaining \$15,000 purchase price;
- b. Written statement acknowledging the retail store and convenience store may not be run together;
- c. TABC Inspection;
- d. Acknowledgment of the rules and regulations;
- e. Bank statements indicating balances of at least \$25,000;
- f. Tax returns for the past two years.

Commissioner Mathews made a motion to approve application upon submission of the pending documentation. Chairman Jones seconded the motion and it passed with 2 ayes.

Commissioner Mathews made a motion to approve the name change. Chairman Jones seconded the motion and it was approved with 2 ayes.

B. WHOLESALE MATTER

**1. ATHENS DISTRIBUTING CO.
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee: Athens Distributing Company

Athens Distributing Company makes application to transfer locations from its current location of 1000 Herman Street in Nashville, Tennessee, to 12980 Old Hickory Boulevard in Nashville, Tennessee. Athens has purchased the property of the proposed new location. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Payment of outstanding citations.

Discussion/Action Taken:

Henry E. Hildebrand, III, attorney for Athens Distributing Company was present at the meeting. Director Elks reviewed the application to the

Commissioners and recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Payment of outstanding citations.

Commissioner Mathews made a motion to approve application upon submission of the pending documentation. Chairman Jones seconded the motion and it passed with 2 ayes.

**2. BEVERAGE CONTROL
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Licensee: Beverage Control, Inc.
Stockholders: Pat Scruggs, Michael Scruggs, Elizabeth Scinta and Jennifer Johnson

Applicant: a) Joe McAfee, William Pinkston and Andrew Johnson, as Executors of the Estate for Pat Scruggs
b) Testamentary trust with beneficiary of Patricia Falkner Scruggs

Before the Commission is a request from Beverage Control, Inc. to first, transfer stock to an estate, and then, if approved, to a trust. Primary stockholder of BCI was William Pat Scruggs, owning 153 shares of voting stock. On June 5, 2007, Mr. Scruggs passed away. Pending probate of his will, the licensee wishes to have Mr. Scruggs shares transferred to his estate with Joe McAfee, William Pinkston and Andrew Johnson as the executors of the estate. If approved, and upon probate, the estate requests that Mr. Scruggs stock be transferred to a testamentary trust, with a beneficiary of Patricia Falkner Scruggs. All documentation has been submitted with the exception of the following:

- a. Copy of the will;
- b. Copy of the trust; and
- c. Questionnaire for Patricia Scruggs.

Discussion/Action Taken:

Henry E. Hildebrand, III, attorney for Beverage Control, Inc. was present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the copy of the will, the trust and questionnaire for Patricia Scruggs. Commissioner Mathews made a motion to approve application upon submission of the pending documentation. Chairman Jones seconded the motion and it passed with 2 ayes.

3. NEW BUSINESS

**A. TOPSIDE WINE & SPIRITS
LOUISVILLE*, TENNESSEE (BLOUNT COUNTY)**

*** Mailing address is Louisville, but is actually within Alcoa's boundaries**

Applicant: Topside Wine and Spirits, LLC
Members: Darrell Tipton and Jarrod Cruze

Before the Commission is a request for a new retail store to be located at 2037 Topside Road in Alcoa, Tennessee. Mr. Darrel Tipton and Mr. Jarrod Cruze seeks approval to operate the new business as a LLC. Mr. Tipton intends to initially invest \$300,000—all available through existing personal funds. M. Tipton would own 95% of the business, and Mr. Cruze would own 5%, and be manager of the store. The property is owned by DLT Properties, Inc.: Mr. Tipton is the president of this corporation. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;
- b. Lease from DLT Properties, Inc. to Applicant.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that all documentation had been received and that she recommended approval upon submission of the Use and Occupancy permit and the lease from DLT Properties, Inc. to Applicant. Commissioner Mathews made a motion to approve upon submission of the pending documentation. Chairman Jones seconded the motion and it passed with 2 ayes.

**B. MEG'S WINE & SPIRITS
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Applicant: Curry Group, LLC
Member: Jacqueline Curry

Before the Commission is a request for a new retail store to be located at 5454-5458 Millertown Pike in Knoxville, Tennessee. Ms. Jacqueline Curry intends to initially invest \$100,000, and operate the business as a LLC. Financing is based upon a \$40,000 flex line of credit with Regions Bank; the remaining \$60,000 comes from existing funds in a joint checking account with her husband, John Curry. Such funds have been withdrawn and placed in a separate business account for Mrs. Curry. Mr. Curry is the owner of West Town Wine and Spirits in Knoxville; Mrs. Curry has not previously been employed. Curry Group, LLC is leasing the property from Gregory Smith Family Partnership, LP for a period of ten years at \$5000/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the Rules and Regulations;
- c. Use and Occupancy permit.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that all documentation had been received and that she recommended approval upon submission of the Use and Occupancy permit, the TABC Inspection and the acknowledgment of the Rules and Regulations. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**C. OLD STILL LIQUORS
CLARKSVILLE, TENNESSEE (MONTGOMERY COUNTY)**

Licensee/Seller: Gerald Willcox, Jr.
Applicant: Ashok Bhagchand

Before the Commission is a request for a transfer of ownership of the retail store to be located at 502A Providence Boulevard in Clarksville, Tennessee. Mr. Ashok Bhagchand wishes to purchase the business for \$30,000 plus existing inventory, and operate the business as a sole proprietorship. Financing is based upon two \$50,000 lines of credit with Legends Bank in Clarksville. Mr. Bhagchand is assuming the existing lease with Hollingsworth Family, LP as the landlord. The existing lease is a five year lease beginning at \$1200/month and increasing to \$1400/month over the life of the lease. All documentation has been submitted with the exception of the following:

- a. TABC inspection and
- b. Acknowledgment of the rules and regulations.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that the TABC Inspection and acknowledgement of the rules and regulations has been received by the staff. Director Elks stated that the applicant wants to change the name to Favorite Liquors if approved. Commissioner Mathews made a motion to approve. Chairman Jones seconded the motion and it passed with 2 ayes. The name change was also approved.

**D. LIQUOR WORLD
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Applicant: Kamlesh Natver Patel

Before the Commission is a request for a new retail store to be located at 541 Signal Mountain Road, Suite 235 in Chattanooga, Tennessee. Mr. Kamlesh Patel wishes to initially invest \$93,000 in the business. Financing is based upon existing personal funds. (Upon investigation, it was determined that \$64,000 was given to the applicant from his father, and \$41,000 was from his daughter.) Mr. Patel is leasing the property from Bright-Meyers Signal Mountain, LP for a period of three years, with monthly rent beginning at \$3000/month and increasing to \$3125/month over the course of the lease. All documentation has been furnished with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy Permit.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and recommended approval upon submission of the TABC Inspection and Use and Occupancy Permit. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**E. PLAZA PACKAGE STORE
JOHNSON CITY, TENNESSEE (WASHINGTON COUNTY)**

Licensee/Seller: Libations, LLC
Members: Peter L. Nickels and Peter J. Nickels
Buyer: Peter L. Nickels

Before the Commission is a request for a transfer of ownership of the retail store located at 4471 N. Roan Street, #2, in Johnson City, Tennessee. Currently, Peter L. Nickels owns 75% interest in the business and Peter Joe Nickels owns 25% interest. Joe Nickels wishes to sell his 25% to Peter Nickels for \$30,000. Financing is based upon existing funds. If approved, Peter L. Nickels will own 100%. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and recommended approval. Chairman Jones made a motion to approve. Commissioner Mathews seconded the motion and it passed with 2 ayes.

**F. WEST END PACKAGE STORE
NEWPORT, TENNESSEE (COCKE COUNTY)**

Licensee/Seller: Sydney, Inc.
Stockholders: Patricia Mathis Taylor
Applicant/Buyer: Mossy Creek Investments, Inc.
Stockholders: Doug Quarles, Carri Quarles, Maxine Quarles

Before the Commission is a request for a transfer of ownership of the retail store located at 335 W. Broadway in Newport, Tennessee. Doug Quarles intends to initially invest \$500,000 and will purchase the business from Ms. Patricia Taylor for \$400,000. If approved, he will operate the business as a corporation with family members: Mr. Quarles will own 60%; his wife, Maxine, will own 10%, and his daughter will own 30%. Financing to purchase the business and the property is based upon a loan with National Bank of Tennessee for \$400,000. The remaining monies are based upon a home equity line of credit with BB&T. All documentation has been submitted with the exception of the following:

- a. Deed (and lease if deed is not in corporation's name).

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and recommended approval upon submission of the Deed (and lease if deed is not in corporation's name). Chairman Jones made a motion to approve upon submission of the lease and/or deed. Commissioner Mathews seconded the motion and it passed with 2 ayes.

4. WHOLESALE MATTERS

**DBI BEVERAGE
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: DBI Beverage Memphis, Inc.
Stockholders: David Ingram

Before the Commission is a request for a new wholesaler license to be located at 5020 Tuggle Road in Memphis Tennessee. DBI Beverage Memphis, Inc. is a Tennessee licensed beer distributor. Tennessee statutes allow wholesale licensees to sell other product and conduct other business—as long as the sale of alcoholic beverages constitutes 51% of the gross sales. All documentation has been submitted with the exception of the business:

- a. Lease from Ingram Entertainment Holdings, Inc. to the applicant;
- b. Updated Use and Occupancy permit;
- c. TABC Inspection;
- d. Acknowledgment of the rules and regulations;
- e. Acknowledgement of the “50% rule”

Discussion/Action Taken:

Director Elks reviewed the application to the Commission and stated that the TABC Inspection has been received by the staff. Director Elks recommended approval upon submission of the following documentation:

- a. Lease from Ingram Entertainment Holdings, Inc. to the applicant;
- b. Updated Use and Occupancy permit;
- c. Acknowledgment of the rules and regulations;
- d. Acknowledgement of the “50% rule”

Director Elks requested that the matter be continued to confirm if DBI Beverage Memphis, Inc. is not the beer distributor. Director Elks stated that the language in the statute states that you cannot do the beer as well as the liquor out of the same business. Director Elks stated that she wants to confirm with DBI Beverage that this is a separate corporation from the beer distributor.

Commissioner Mathews made a motion to defer the matter to the November meeting. Chairman Jones seconded the motion and it passed with 2 ayes.

Chairman Jones requested that Director Elks give a verbal summation at the November meeting regarding what governs these issues so the Commission will not have to look up the TCA statute.

5. WINERIES

A. J-6 Waivers. The TABC has received emergency notification from Commissioner Ken Givens, Department of Agriculture, that due to the freeze conditions in April, 2007, and subsequent drought conditions, approximately 80% of the grape and fruit crop has been lost for this year. The Department of Agriculture has confirmed the non-existence or non-availability of the following grapes and fruits:

Grapes: Alwood, Baco Noir, Cabernet, Cabernet Franc, Cabernet Sauvignon, Campbell's Early, Catawba, Cayuga, Chambourcin, Chancellor, Ghardonelle, Chardonnay, Concord, Cynthiana, De Chaunac, Edelweiss, Elvira, Foch, Fredonia, Gewurztraminer, golden Muscat, Ives, Kaye Gray, Martha, Merlot, Muscadine, Niagara, Peite Verdot, Pinot Gris, Riesling, Rogeon, Sauvignon Blanc, Seyval Blanc, Shiraz, Steuben, Sunbelt, Syrah, Traminette, Vidal, Viognier, Zinfandel.

Fruit: Apple, Blackberry, Blueberry Cherries, Honey, Peach, Raspberry, Rhubarb, and Strawberries.

Due to the emergency situation, TABC staff has approved the following J-6 Waivers:

**A. Beachaven Vineyards and Winery
Clarksville, Tennessee**

Concord (1000 gallons); Riesling (4000 gallons); Vidal (1000 gallons); Merlot (2075 gallons); Muscat (1375 gallons); Gewurztraminer (825 gallons), and Savgiovese (1000 gallons).

Discussion/Action Taken:

Commissioner Mathews made a motion to approve the J-6 Waiver. Chairman Jones seconded the motion and it was approved with 2 ayes.

6. ADMINISTRATIVE CITATIONS

A. JOSEPH HENLEY

On September 22, 2007, TABC Agent Brad Allison observed the Respondent serve and sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as PM. The Respondent did not check the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Assistant Director Smith stated that Joseph Henley contacted SA Brad Allison and informed that he had mailed a check to pay for the citation. Assistant Director Smith stated that the staff has not received the payment; but in light of his call, Assistant Director Smith recommended that the matter be continued to the November meeting and confirm that the payment was received. Commissioner Mathews made a motion to continue the matter to the November Commission meeting. Chairman Jones seconded the motion and it was approved with 2 ayes.

B. KRISTOPHER KOON

On September 21, 2007, TABC Agent Brad Allison observed the Respondent serve and sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as Rumour's. The Respondent did not check the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Assistant Director Smith stated that Kristopher Koon has paid the administrative citation; so therefore, no action is necessary.

C. DAVID SAYLORS

On September 21, 2007, TABC Agent Brad Allison observed the Respondent serve and sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as Outback. The Respondent did not check the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Assistant Director Smith stated that David Saylor contacted her that morning and had requested to make partial payments and Assistant Director Smith stated the staff has no objections to the payment plan. Assistant Director Smith requested that the matter be continued to the November meeting so that the staff can complete the proper paperwork. Commissioner Mathews made a motion to defer the matter to the November meeting. Chairman Jones seconded the motion and it passed with 2 ayes.

D. STEPHANIE JOHNSON

On September 21, 2007, TABC Agent Brad Allison observed the Respondent serve and sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as Mirror. The Respondent did not check the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Assistant Director Smith stated that Stephanie Johnson has paid the administrative citation; so therefore, no action is necessary.

F. JESSICA ST.CLAIR

On September 21, 2007, TABC Agent Debra Warren observed the Respondent serve and sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as Mafiaozas. The Respondent did check the minor's identification, but sold the alcoholic beverage to the minor. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

William Cheek, III, attorney for Jessica St. Clair was present at the meeting. William Cheek requested that the matter be continued to the November meeting so his client and the licensee, along with the TABC staff could resolve the underlying issues of the administrative citation. Assistant Director Smith stated that the staff did not have an objection to defer the matter to the November meeting.

Commissioner Mathews made a motion to defer the matter to the November meeting. Chairman Jones seconded the motion and it passed with 2 ayes.

G. LUNDY SCOTT LEE

On September 22, 2007, TABC Agent Debra Warren observed the Respondent serve and sell an alcoholic beverage to the nineteen year-old confidential operative at the establishment doing business as Barcar. The Respondent did not check the minor's identification. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Assistant Director Smith stated that Lundy Scott Lee has paid the administrative citation; so therefore, no action is necessary.

7. BUDGET

- 8. PERSONNEL** – Director Elks introduced two new agents, SA Nina Williamson and SA Rosalyn Jackson, of the Memphis office.

Chairman Jones stated that SA Tom Correll of the Johnson City office is retiring with 25 plus years of service.

9. CONSENT ORDERS

10. PENDING MATTERS LIST

- 11. MISCELLANEOUS** - Chairman Jones stated that the history of the Commission approving name changes was so that the Commission had control to make sure the names were acceptable to the public. Chairman Jones asked if different retail package stores have the same trade names does that apply to the trade laws.

Chairman Jones asked if that is something the Commission should be concerned with.

Director Elks stated that it could become an issue; however, Director Elks that she did not feel that it was something that the Commission should be concerned with because the standing would be with the holder of the trademark or the copyright of the name.

- 12. DATE OF NEXT MEETING** – Friday, November 16 and Thursday, December 20, 2007 at 1:30 p.m.

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman